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Church and State in Mexico

BY EARLE K. JAMES

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Church and State in Mexico

BY EARLE K. JAMES

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INTRODUCTION

ONCE again Church and State in Mexico are in conflict. Successive limitations imposed on the priesthood by the state and federal governments, and the formulation of a program of so-called "socialistic" education for the nation's schools, have given rise to protests by the Catholic clergy and laity. Reverberations of the controversy have been heard in the United States. The hierarchy of the Roman Catholic Church in this country has appealed to American Catholics "to make themselves apostles proclaiming to the world the iniquity and tyranny" in Mexico.[1] The recall of Josephus Daniels, Ambassador to Mexico, has been demanded by Catholics who regard his commendations of Mexico's educational program as an endorsement of its allegedly anti-religious aspects[2]—an intent which the Ambassador has denied.[3] In January 1935 Senator Borah, referring to the "vindictive anti-religious policy of the present Mexican government," introduced into the Senate a resolution calling for an inquiry into "religious persecution and anti-religious compulsion and agitation in Mexico for the purpose of determining the policy of the United States in reference to this vital problem."[4] The matter was also presented to the House, where Representative Connery insisted the United States had "the right to step in in Mexico."[5] Denunciations of Mexico, demands for intervention, movements to boycott Mexican goods, have been frequent in the last few months. Occasionally Protestants and Jews have joined Catholics in appeals for religious tolerance in Mexico,[6] although Protestant churches have in general opposed anything resembling intervention by the United States.[7] But pressure for action by the Washington administration continues,[8] and a question which might ordinarily have been regarded as internal now not only affects relations between the two countries, but threatens to have repercussions on domestic politics in the United States. Archbishop Curley of Baltimore has charged President Roosevelt with responsibility for the failure of the Senate Foreign Relations Committee to take action on the Borah resolution; has intimated that the votes of millions of Catholics might reply to an "unjustifiable policy of ignoble silence," and has stated that to apply the administration's "good neighbor" policy to Mexico was like trying to be a good neighbor to a man who came home drunk, beat his wife, kept his children in rags, and sometimes threw them out of

1. *New York Times,* November 17, 1934.

2. *New York Herald Tribune,* October 17, December 24, 1934. Representative Clare G. Fenerty on June 16 introduced in the House a resolution asking the retirement of Ambassador Daniels. *New York Herald Tribune,* June 18, 1935.

3. *New York Times,* October 18, 1934.

4. S.Res. 70, *Congressional Record,* January 31, 1935, vol. 79, no. 21, p. 1338.

5. *Congressional Record,* February 5, 1935, vol. 79, no. 24, p. 1517. Cf. also issue of February 8 (no. 27) and H.Res. 179 and 194.

6. *New York Times,* November 27, December 17, 1934; *New York Herald Tribune,* March 18, 1935.

7. Cf. reports of the National Council of the Protestant Episcopal Church, *New York Times,* February 14, 1935; of the Board of Foreign Missions of the Methodist Episcopal Church, *ibid.,* February 22, 1935; and of the Federal Council of Churches of Christ in America, *ibid.,* March 2, 1935.

8. Thirty Representatives met in April "to lay plans for an aggressive campaign" to force House action on the Higgins resolution (H.Res. 179) for the proposed Borah inquiry into religious conditions in Mexico. *New York Times,* April 5, 1935. *Congressional Record,* April 1, 1935, vol. 79, no. 65, p. 4981.

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the window.[9] More recently, the reported break between President Cárdenas and General Calles—who, since his retirement from the presidency in 1928, has dominated the ruling party in Mexico—has served to revive agitation of the question. On June 16 15,000 Catholics held a demonstration before the foreign Rotarians meeting in Mexico City,[9a] and in New York Cardinal Hayes issued a letter on the Mexican church situation to be read at all masses on Sunday, June 23, which called for prayer "to put an end to the cruel, tyrannical and even diabolical persecution of our sister church in Mexico."[9b]

HISTORY OF THE CONTROVERSY

The roots of the Church-State conflict in Mexico extend back through centuries. Spain had established in its Mexican colony a dual administrative system representing a semi-fusion of civil and ecclesiastical authority. "Recognize the Church as superior in the world," Cortés told the natives after conquering them, and "the king and queen as lords and sovereigns of this land."[10] The Church, as well as civil authorities, built and governed the new colony. Churchmen were educators, architects, craftsmen and statesmen. Of Mexico's sixty-two viceroys, eleven were bishops or archbishops, an archbishop having served in this capacity in 1809, on the eve of independence.[11] There were open clashes between the representatives of the civil and ecclesiastical powers as far back as 1624;[12] and the conflict which developed as the wealth and influence of both authorities increased is reflected in the expulsion of the Jesuits by Charles III in 1767, and the expropriations of Mexican church property ordered by Charles IV in 1804.[13]

When the colony achieved independence in 1821, the struggle was accentuated. The restraining influence of Spain was no longer present, while republican philosophy implied termination of the colonial division of powers and the erection of a supreme lay state. The dualism established by the Spanish system, however, was too firmly rooted to be easily altered. The conflict between civil and ecclesiastical powers was consequently prolonged for over a century. The achievements of Gomez Farías in 1833, Benito Juárez in 1857, and Lerdo de Tejada in 1875 represent successive efforts by the civil authorities to curb the ecclesiastical power through legislation or constitutional provisions;[14] and the Constitution of 1917 marked the culminating point in this long struggle.

RELIGIOUS PROVISIONS OF THE 1917 CONSTITUTION

This constitution is the product of a revolution which has been described as a "great social movement" against the "secular oligarchy of the clergy, the *caciques*, the absentee landlords, and the militarists."[15] Its aim was to terminate all the abuses of the old régime; and the Church, as a dominant institution in the old order, suffered together with others.

The 1917 Constitution clearly reflects Mexico's long religious conflict, for many of its principles merely reiterate those which the Reform Laws of the Lerdo de Tejada administration and the Constitution of 1857 had tried to establish. Those bodies of legislation prohibited the Church from owning property and mortgages, forbade religious instruction in public buildings, restricted the use of clerical garb, made marriage a civil contract, made clericals ineligible to serve as members of Congress or as President of the republic, and bestowed on the federal authorities "exclusive power to exercise in matters of religious worship and outward ecclesiastical forms, such intervention as by law authorized."[16] The Constitution of 1857, in fact, has always been viewed by Mexicans as their basic charter; and a liberal delegate to the constitutional con-

9. *New York Times*, March 26, 1935.

9a. *Ibid.*, June 17, 1935.

9b. *New York Herald Tribune*, June 21, 1935.

10. Charles S. Braden, *Religious Aspects of the Conquest of Mexico* (Durham, N. C., Duke University Press, 1930), p. 27.

11. Matias Romero, *Mexico and the United States* (New York, G. P. Putnam's, 1898), pp. 372-375.

12. Father Andrés Cavo, *Los tres siglos de Méjico* (Mexico, J. R. Navarro, 1852), pp. 83-85.

13. Alexander von Humboldt, *Political Essay on the Kingdom of New Spain* (3rd edition, London, Longman, Hurst, Rees, Orme and Brown, 1822), vol. III, p. 100; Lucas Alamán, *Historia de Méjico* (Mexico, J. M. Lara, 1849-1852), vol. I, pp. 137-39.

14. The story of this conflict will be found in J. Lloyd Mecham, *Church and State in Latin America*, Chapters XIV and XV (Chapel Hill, University of North Carolina Press, 1934); and in two volumes by Wilfrid Hardy Callcott, *Church and State in Mexico, 1822-1857* (Durham, N. C., Duke University Press, 1926) and *Liberalism in Mexico, 1857-1929* (Stanford University, Stanford University Press, 1931), *passim*. The Catholic point of view is presented by Bishop Francis Clement Kelley, *Blood-Drenched Altars* (Milwaukee, Bruce Publishing Co., 1935).

15. Keynote orator of the Querétaro convention which framed the Constitution of 1917. Callcott, *Liberalism in Mexico*, cited, p. 271.

16. Constitution of 1857, Art. 123. For a survey of the antecedents of the 1917 document, cf. "The Mexican Constitution of 1917 Compared with the Constitution of 1857," Supplement to *The Annals*, American Academy of Political and Social Science, May 1917. Also Mecham, *Church and State in Latin America*, cited, p. 436-39, 468-74; and Callcott, *Liberalism in Mexico*, cited, p. 1-13, 274-9.

vention of 1916-1917 deplored some of the anti-clerical excesses because, he said, the delegates had not been convoked "to change the liberal principles of '57."[17] But in the recurrent Church-State conflicts of the past the Church had been identified in the minds of many Mexicans with reactionary forces; "Church institutions had tied their external position to the politicians of the old régime and to the aristocratic land system."[18] The revolution of 1910 emerged as a violent effort to sweep away that old régime in Mexico—and with it the Church was inevitably associated. Since the "liberal principles of '57" had been evaded or negated, the delegates preparing the 1917 Constitution eventually added to the excesses of revolution the precautions of fear—for, as one delegate said, "national security measures" were needed because "the clergy is the eternal enemy, which is never conquered, but which is disposed to struggle to the end."[19]

The Constitution, permeated by the philosophy of the lay state, envisages a church stripped of its temporal powers and transformed from a powerful social and economic institution into an association of people united solely for religious or spiritual purposes. Its clauses concerning institutionalized religion are drastic. Freedom of religious worship is guaranteed, but "every act of public worship" is to be "performed strictly within the places of public worship which shall at all times be under governmental supervision." (Art. 24.) The "religious associations known as churches, irrespective of creed" are denied "legal capacity to acquire, hold or administer real property or loans on such property"; and ownership of all such property is vested in the nation (Art. 27).[20] The property which charitable, scientific, or mutual aid institutions may hold is limited to that "indispensable" for their purposes; and such charitable institutions are prohibited from functioning under "the patronage, direction, administration, charge or supervision of religious corporations or institutions" or their ministers (Art. 27).

The Constitution denies "ministers of any religious creed" the right to hold office in Congress or as chief executive (Arts. 55, 59 and 82), as well as the right to vote (Art. 130); restrains ministers of religious creeds from "criticizing the fundamental laws of the country" either in "public or private meetings or in acts of worship or religious propaganda"; prohibits religious publications from commenting "upon any political affairs of the nation" (Art. 130); and stipulates that Mexican citizenship shall be lost by persons "committing themselves in any way before ministers of any religious creed or before any other person not to observe the present Constitution, or the laws arising thereunder."[21] (Art. 37.)

The Constitution also forbids the "abridgement, loss or irrevocable sacrifice of liberty" through monastic vows (Art. 5); gives federal authorities "exclusive power to exercise in matters of religious worship and outward ecclesiastical forms, such intervention as by law authorized"; makes marriage "a civil contract"; and while restraining Congress from enacting "any law establishing or forbidding any religion whatsoever" recognizes "no corporate existence [juridical personality] in the religious associations known as churches." (Art. 130.)

States are given "the exclusive power of determining the maximum number of ministers of religious creeds according to the needs of each locality" (Art. 130); and the Constitution also establishes that only "Mexicans by birth may be ministers of any religious creed." (Art. 130.)

Finally, public instruction is to be secular, and "religious corporations" or "ministers of any religious creed" may not establish or direct primary schools (Art. 3).

PROTESTS AGAINST CONSTITUTION

Although a group of Mexican bishops, who had sought refuge from the 1910 revolution in the United States, protested against the provisions of

17. *Diario de Debates,* cited in Mecham, *Church and State in Latin America,* cited, p. 469.

18. *Latin America and the United States* (Washington, D. C., The Catholic Association for International Peace, 1929), p. 21.

19. Mecham, *Church and State in Latin America,* cited, p. 569. The same excess of precaution against the possible return of the old order is evident in provisions of the Constitution not affecting the Church—e.g., those relative to the eradication of latifundism (Art. 27) or the reelection of a President (Art. 83).

20. This restriction arises from the economic and political influence the Church had wielded in the past because of its wealth, which at the close of the colonial period had been variously estimated as representing from a third to one-half of the wealth of the nation. Cf. Helen Phipps, *Some Aspects of the Agrarian Question in Mexico* (University of Texas Bulletin No. 2515, 1925), pp. 59-60 and *passim;* L. E. Fisher, *The Background of the Revolution for Mexican Independence* (Boston, The Christopher Publishing House, 1934), pp. 216-24; Lucas Alamán, *Historia de Méjico,* cited, I, p. 67; von Humboldt, *Political Essay on the Kingdom of New Spain,* cited, I, pp. 229-33, III, pp. 99-100; Fernando Gonzalez Roa, *Las cuestiones fundamentales de actualidad en México* (Mexico, Imprenta de la Sec. de Relaciones Exteriores, 1927), pp. 153-192; Lucio Mendieta y Nuñez, *El problema agrario en México* (Mexico, 1923), pp. 38-42, 73-80, 81-99; George McC. McBride, *The Land Systems of Mexico* (New York, American Geographic Society, Research Series No. 12, 1923), pp. 59, 61, 67, 90. For a Catholic opinion as to the use to which this wealth was put, cf. Kelley, *Blood-Drenched Altars,* cited.

21. These clauses represent an effort to end what F. García Calderón calls "religion as an instrument of political domination." *Latin America: Its Rise and Progress* (London, T. Fisher Unwin, 1913), p. 286.

this Constitution,[22] no serious conflict was then provoked as enabling legislation to enforce the religious measures of the charter was lacking; and "for nearly eight years, so far as interference with the Church was concerned, the new Constitution might as well have been non-existent."[23]

But by 1925 it became evident that the dormant issue was stirring once more. The traditionally radical states of Tabasco and Yucatán passed legislation affecting priests, the former limiting their number, the latter requiring them to marry; and the League for Religious Defense was organized by Catholic laymen for the purpose of obtaining repeal of the religious provisions of the Constitution.[24]

On February 2, 1926 Pope Pius XI addressed an Apostolic Letter to the Mexican bishops. While he deplored the "wicked . . . regulations and laws invoked against the Catholic citizens of Mexico," he urged all Catholics to hold themselves "entirely aloof from every kind of political party" and forbade the establishment of "any political party under the name of Catholic." Instead of political activities, His Holiness added, the clergy would "find open to them a wide field in which they can spend their energy in the interest of religion and morals and culture, as well as in the betterment of economic and social conditions," thus setting a "good example which the faithful can follow." If this were done, Pope Pius added, "there is no doubt in Our mind that . . . the heavy afflictions which have long beset the noble Mexican people will at length, with the help of God, happily abate and cease."[25]

The Mexican hierarchy did not release this letter for publication until April 19.[26] But two days after it was written, on February 4, 1926, *El Universal*, a Mexico City daily, published an interview with Archbishop Mora y del Río in which the prelate was asked if the Catholic Church, nine years after the adoption of the Constitution, still adhered to its original protest against the religious clauses. That protest, the Archbishop replied, was not only "firmly reiterated" but "it has been strengthened." He confirmed a report published in *El Universal* of January 27 to the effect that a campaign against "these unjust laws which are contrary to Natural Right" would be undertaken, and added that the "Episcopate, the clergy, and Catholics do not recognize, and shall combat, Articles 3, 5, 27, and 130 of the existing Constitution."[27]

The interview aroused a storm of protest from the anti-clericals. "With a government prone to accept such a challenge," says Priestley, "hostilities were inevitable."[28] The government declared the attitude of the Archbishop constituted rebellion, and its first move was to order the expulsion of foreign-born priests and the closure of convents, and to circularize the state governors requesting that they enforce the religious provisions of the Constitution.[29]

A presidential decree issued in July amended the Penal Code and for the first time provided the legal sanctions necessary to enforce the religious clauses of the Constitution.[30] It also called for the registration of all priests. The Church decided to refuse to obey this regulation, and on August 1 took the drastic step of suspending "every act of public worship which requires the intervention of a priest."[31] The government, however, allowed the churches to remain open. The League for Religious Defense at this time also called for a boycott intended "to create in the nation a state of intense economic crisis," and "paralyze [its] social and economic life,"[32] a move endorsed by the Mexican Committee of Bishops which subsequently proved a failure.

THE 1929 AGREEMENT

Although theoretically the positions of the State and the Church were irreconcilable, moderate ele-

22. The protest was published in *El Universal* (Mexico), February 8, 1926. Cf. Alfonso Toro, *La iglesia y el estado en México* (Mexico, Archivo General de la Nación, Sec. de Gobernación, 1927), pp. 383, 399-402.

23. Mecham, *Church and State in Latin America*, cited, p. 474.

24. Callcott, *Liberalism in Mexico*, cited, pp. 353-54; Mecham, *Church and State in Latin America*, cited, p. 476. Some earlier state legislation restricting priests had been revoked.

25. This Apostolic Letter is reproduced in full in William F. Montavon, *The Facts Concerning the Mexican Problem* (Washington, D. C., National Catholic Welfare Conference, 1926), pp. 48-51.

26. *Current History*, June 1926, p. 448. Mecham, *Church and State in Latin America*, cited, p. 481.

27. Cf. Toro, *La iglesia y el estado en México*, cited, pp. 383-84; Walter Lippmann, "Church and State in Mexico: the American Mediation," *Foreign Affairs*, January 1930; Callcott, *Liberalism in Mexico*, cited, pp. 354-55; Mecham, *Church and State in Latin America*, cited.

28. Moisés Sáenz and Herbert J. Priestley, *Some Mexican Problems* (Chicago, University of Chicago Press, 1926), p. 135.

29. *New York Times*, February 25, 1926; *Current History*, April 1926.

30. *Ley que reforma el Código Penal para el Distrito y Territorios Federales sobre delitos del fuero común y para toda la república sobre delitos contra la Federación en materias de culto religioso y disciplina externa. Diario Oficial* (Mexico), July 2, 1926; *El Universal* (Mexico), July 3, 1926.

31. *Pastoral Colectiva del Episcopado Mexicano. El Universal* (Mexico), July 25, 1926. This Pastoral Letter is also reproduced in Montavon, *Religious Crisis in Mexico*, cited, pp. 23-27. The Letter states this action was taken "after having consulted our Holy Father."

32. Montavon, *Religious Crisis in Mexico*, cited, pp. 28-29; Mecham, *Church and State in Latin America*, cited, p. 487.

ments of both parties eventually were able to reach a *modus vivendi* which temporarily brought the conflict to an end. It took the form of two public statements made on June 21, 1929, one by President Portes Gil, who had succeeded Calles, the other by Archbishop Ruiz y Flores. The basic issues at stake were in reality avoided, the agreement being substantially on a lesser point in the controversy: the Church would permit priests to register, but this concession did not mean that the government could register any not named by the hierarchical superior.[33] It was further agreed that while religious instruction was prohibited by the Constitution in private or public schools, "this does not prevent ministers of any religion from imparting its doctrines, within church confines, to adults or their children." Also the right of petition for changes in the laws was affirmed, preventing a recurrence of the extreme attitude Congress had adopted in 1926 when petitions by the clergy for constitutional reforms were rejected on the ground that the bishops, by expressing their determination not to obey the Constitution, had forfeited citizenship.[34]

This agreement, as one writer observes, was merely an understanding that depended "upon the state of mind of relatively few men."[35] As there was no treaty and no concordat, and as the fundamental issues had not been touched, the future relations of the State and the Church rested on "imponderables," that is, the attitude of the parties concerned. "A sort of armistice" the League for the Defense of Religious Liberty said bitterly, reluctant to accept the decision of the hierarchy.[36]

Many Mexicans, however, viewed the agreement as signalizing not an armistice but the definite victory of the civil power over the ecclesiastical. The Constitution of 1917 represented for them the climax of a struggle which had been waged intermittently since the days of the colony, and marked the end of an era. Henceforth the problem concerned adjustment of the spheres of influence of two powers existing in a new relationship.

33. It had been charged that registration of priests would wipe out the authority of the Church to control its own clergy, and it had been alleged that persons not accepted by the Church as its priests might be registered as such. "Ministers cannot register," the Mexican Episcopacy had stated in 1926, "because on registering as responsible before the civil authorities for the fulfillment of the laws, they become subordinate to the civil power." *El Universal* (Mexico), August 8, 1926.

34. The full text of both statements will be found in *Survey of American Foreign Relations, 1931* (New Haven, Yale University Press, 1931), pp. 310-312.

35. Lippmann, "Church and State in Mexico: the American Mediation," cited, p. 187.

36. Mecham, *Church and State in Latin America*, cited, p. 498.

THE CRISIS OF 1931-1932

The "state of mind" represented by the *modus vivendi* of 1929 was shattered in 1931. In June of that year Adalberto Tejeda, governor of the state of Vera Cruz, fiery anti-clerical who had been Minister of the Interior during the 1926 crisis, approved a law passed by the state legislature limiting the number of priests in his state to one for every 100,000 inhabitants;[37] and in a telegram to the Apostolic Delegate on July 29 defended this course by branding the Catholic Church "the enemy of all work tending toward human redemption."[38] The states of Chiapas and Yucatán followed suit, while in Tabasco, the Church reported, no priests at all were functioning.[39]

The crisis became acute in December with the celebration of the quadricentennial of the Virgin of Guadalupe. The ceremonies were lavish in pomp and splendor. To the Basilica of Guadalupe on Tepeyac Hill "about half a million people either rode in luxurious cars, walked, or were carried. Twenty-seven Archbishops and Bishops and nearly two hundred priests officiated at services. The Virgin's altar was a mass of roses, Her much-bejewelled crown shining gorgeously under thousands of electric lights."[40]

The demonstration, in so far as the relations of the Church to the State were concerned, proved ill-timed and unfortunate. The worship of the Virgin of Guadalupe was criticized by those who would prefer to see the Catholic religion shorn of some of its elaborate external ritual and its associations with primitivism and local deities.[41] A former governor of Chihuahua, director of *El Nacional*—the organ of the National Revolutionary party—and a rabid anti-clerical, sharply condemned the whole proceedings in an article in which he referred to the "heathenish festival of Guadalupe," the "gross exploitation of the Mexican people," and declared "it is time to put an end to these activities, and I am sure the government which emanated from the Revolution will do so."[42]

37. *New York Times*, June 12, 1931; *Current History*, August 1931, pp. 754-56; September 1931, pp. 913-15.

38. *Current History*, October 1931, p. 113.

39. *Ibid.*, November 1931, p. 270.

40. *New York Times* and *New York Herald Tribune*, December 13, 1931.

41. Worship of the Virgin of Guadalupe is regarded as substitution of a Christian symbol for a primitive deity, for the hill where the shrine is established was the site of the Aztec temple erected to the goddess Teotenantzin. Braden, *Religious Aspects of the Conquest of Mexico*, cited, pp. 303-07. Cf. *Catholic Encyclopaedia* ("the picture of our Lady of Guadalupe really constitutes Guadalupe. It makes the shrine; it occasions the devotion"), Vol. 7, p. 43.

42. *New York Times*, December 14, 1931.

Congress immediately took cognizance of the situation. "We should not fail to respond to this insulting challenge by vigorous joint action," said one Senator.[43] Diplomats who had attended the festivities were subjected to criticism,[44] and a Senator who had participated was expelled from the party. The name of the village of Guadalupe was changed to Villa Gustavo Madero.[45] A bill limiting the number of priests in the Federal District and Territories to one for every 50,000 inhabitants was approved and went into effect on December 30. This bill for the first time associated the federal government with the anti-clerical trend previously evident in the radical states.[46]

An appeal from the Archbishop to President Ortiz Rubio having been disavowed,[47] the Church decided to refuse to permit the twenty-five priests authorized by the new law for the Federal District to register with the government. "No priest has registered and none will be permitted to register," the Archbishop declared, "because registration would automatically violate the traditional autonomy of the Church and its priesthood."[48] Although religious services were suspended in the Federal District, the Church this time resorted to passive resistance and court action to obtain relief. A Pastoral Letter of Archbishop Pascual Diaz instructed Catholic priests: "in no way to subject yourselves to the law, and in order to fight and defend yourselves, to resort, as soon as violence threatens, to the recourse of the *amparo*[49] which the law prescribes, adhering especially to the constitutional guarantee to which this letter alludes."[50]

On January 22 judges of the six district courts unanimously resolved that the applications lodged by Catholic priests should be refused, chiefly on the ground that the legislation in question did not impair the liberty of Catholics in the exercise of their faith.[51]

Subsequently other Mexican states enacted legislation limiting the number of priests; and by the end of 1934, with a population of over 14,000,000 Catholics, less than 500 priests in all of Mexico were permitted to exercise their ministry.[52] "Every one can see," wrote Pope Pius XI in 1932, "whether it is possible with such restrictions to administer the Sacraments to so many people scattered for the most part over a vast territory."[53] Of course deduction must be made for those Catholics who are only nominally religious. Even so, it is arguable that, contrary to the decision rendered in the lower courts, the severe restrictions adopted impair the liberty of Catholics in the exercise of their faith and are scarcely compatible with Article 24 of the Constitution which states that "everybody is free to embrace the religion of his choice and to practice all ceremonies, devotions or observances of his respective creed"; and that the Apostolic Delegate, Archbishop Leopoldo Ruiz y Flores, did not indulge in overstatement when he declared with reference to the Vera Cruz legislation that if "you reduce priests to one for every 100,000 inhabitants you might as well do away with them entirely."[54]

THE CONFLICT OVER EDUCATION

Application of the educational philosophy of the Constitution has been the second chief source of conflict disrupting the *modus vivendi* of 1929. Ar-

43. *New York Herald Tribune*, December 15, 1931.

44. *New York Times*, December 16, 1931.

45. *New York Herald Tribune*, December 24, 1931.

46. In a federated republic such as Mexico the acts of semi-autonomous states must of course be distinguished from the policies of the federal government.

47. *New York Herald Tribune*, December 25, 1931.

48. *New York Times*, January 2, 1931. It may be noted that such a reason for non-registration did not prevent the 1929 agreement.

49. "This unique feature of Mexican jurisprudence combines the essential elements of the extraordinary writs of *habeas corpus*, *certiorari* and *mandamus*. It is a federal procedure designed to give immediate redress when any of the fundamental rights of man are infringed by any authority, irrespective of category, or to excuse the obedience of a law or decree which has invaded the federal or local sphere," Supplement to *The Annals*, cited, note to Art. 130, p. 115.

50. *New York Times*, January 3, 1932. Article 24 of the Constitution declares "everybody is free to embrace the religion of his choice."

51. "As the Law [the decision said in part] only limits the number of priests of each cult and does not concretely and individually legislate against the faithful or believers, it does not impose directly any obligation or prohibition that restricts their liberty to profess their belief, nor does it prohibit the exercise of their cult or the religious practices of the same . . . There is no direct injury that implies violation of the guarantees offered by the Constitution." *El Universal* (Mexico), January 23, 1932.

52. William F. Montavon, *The Church in Mexico Protests* (Washington, D. C., National Catholic Welfare Conference, 1934), p. 14. Cf. Charles S. Macfarland, *Chaos in Mexico* (New York, Harper and Brothers, 1935), pp. 70-71.

53. Encyclical *Acerba animi*, September 29, 1932.

54. *New York Times*, June 12, 1931. The twenty million Catholics in the United States and Territories are served by some 30,000 secular and regular priests (*Official Catholic Directory for 1935*). A statement of the National Council of the Protestant Episcopal Church in February 1935 said that body had not joined in any protest on Mexico, "being not yet convinced that there is actual persecution by the Government on religious grounds," but added: "we deplore, however, the action of certain local authorities . . . which seems to be a violation of the principle of religious freedom and of the individual rights secured to the citizens of Mexico by their Constitution." Article 130 of the Constitution, this statement added, "has been used by certain local Governors as an excuse for making the free exercise of religion almost prohibitory in their States." *New York Times*, February 14, 1935.

ticle 3 of the Constitution provides for free instruction, which is to be secular in all public institutions; and "primary education,[55] whether higher or lower, given in private institutions shall also be secular."[56] Moreover, "no religious corporation nor minister of any religious creed shall establish or direct schools of primary instruction"; and "private primary schools may be established only subject to official supervision." Article 130 adds that "under no conditions shall studies carried on in institutions devoted to the professional training of ministers of religious creeds be ratified," that is, be recognized by the State.

As in the case of most of the clauses which impinged on the Church, Article 3 had not been strictly enforced until the statement of Archbishop Mora y del Río early in 1926—partly, it may be assumed, because of the time required by the state to build up a system of public education on the ruins of the inadequate one left by the Diaz régime.[57] The first important step toward application of these provisions was taken by Calles in his decree of July 1926,[58] which established the regulatory legislation prohibiting ministers from acting as directors or teachers of private educational institutions, and eliminating religious instruction as well as altars, chapels, and "objects of a religious nature" from the schools.[59]

Coincident with this measure the government moved to exert greater control over secondary education. The early educational program of the revolution had concentrated primarily on an ambitious expansion of elementary education, particularly what was designated as the rural school program.[60] Late in 1926[61] a Calles decree established the federal educational requirements for public secondary schools and for those private secondary institutions whose studies would be recognized by the government. The private secondary schools conforming to the curricular and administrative norms formulated by this decree are referred to as private schools "incorporated into the official system."

New regulations tightening the government's control over secondary education followed the Guadalupe episode. These, however, were not aimed merely at maintaining certain educational standards for private institutions wishing to obtain state recognition of their credits, but sought to prescribe as well the dominant philosophy of the schools: the new measures were frankly directed at "establishing clearly the control of laicism in private schools."[62]

To this end the 1926 decree was "reformed"; and the private secondary schools "incorporated into the state system" were henceforth—in order to have their credits validated—to "impart their education on a basis of absolute laicism."[63] They could not be seminaries of any religious group, they could not be under the direction of religious bodies or ministers, no minister could be on the faculty, and no "chapels, altars or places devoted to the practice of any religious cult" could be maintained in them.[64] The freedom of private individuals to establish secondary schools was reiterated;[65] but this condition of "absolute laicism" was the indispensable prerequisite for state recognition of credits. Graduates of schools not coming within these norms—that is, from schools not classifiable as "incorporated into the public system"—would have to submit to state examinations in order to qualify for matriculation in the state professional schools.[66] Subsequently this same requirement of "absolute laicism" was extended to private university schools if their credits were to be recognized by the state.[67]

SECULARIZATION OF PUBLIC INSTRUCTION

The dominant educational philosophy of the government[68] has thus provoked opposition from the Church on two central issues. In the first place the Church opposes the legal restrictions which limit its participation in educational matters. It cannot maintain elementary, secondary or normal

55. Primary education in Mexico is the same as elementary education in the United States.

56. Some of the background of Article 3 will be found in *La educación pública en México a través de los mensajes presidenciales* (Mexico, Secretaria de Educación Pública, 1926).

57. The present Ministry of Education was not organized until 1921. Cf. Frank Tannenbaum, *Peace by Revolution* (New York, Columbia University Press, 1933), pp. 263-274.

58. *New York Times*, July 24, 1926. Cf. Callcott, *Liberalism in Mexico, 1857-1929*, cited, p. 359; Mecham, *Church and State in Latin America*, cited, p. 486.

59. *New York Times*, July 27, 1926.

60. Cf. Sáenz in Sáenz and Priestley, *Some Mexican Problems*, cited. It was not until 1925 that a Department of Secondary Education was created in the Ministry of Public Education (Presidential decree of December 22, 1925).

61. Decree of November 16, 1926, *Diario Oficial*, December 10, 1926.

62. Decree of December 29, 1931 (*Diario Oficial*, January 11, 1932). Cf. *New York Times*, January 2, 1932; also *El Universal* (Mexico), January 1, 1932.

63. Decree of December 29, 1931, cited, Article 2, Section II.

64. *Ibid.*, Article 26.

65. *Ibid.*, Article 1.

66. *Ibid.*, Article 6.

67. Decree of March 8, 1932 (*Diario Oficial*, March 17, 1932).

68. It is to be borne in mind that two educational systems exist in Mexico—the federal system and that of the local authorities (state and municipal). As the controversy with the Church has been primarily over the educational policies of the federal government, only this aspect of it is studied here. Local policies vary from extreme anti-clericalism to moderate or even conciliatory attitudes.

schools;[69] it cannot inject itself in any way into the system of public instruction; and what schools it may conduct can receive no state recognition of credits, which in effect bars their graduates from the right to exercise a profession unless they can satisfactorily pass special state examinations. The Church, in short, is not recognized as an educational institution in the organized civic scheme of Mexican society. This is a concept with which nations professing liberty of religion and liberty of teaching are not in accord.

Second, the Church feels it must oppose the spirit and content of the educational programs of the state. In other words, the Church's strategy—especially since 1932—has been characterized by offensive as well as defensive measures: it has not only moved to protect its traditional rights but has felt impelled to attack instruction in state schools which it considered contrary to Catholic principles.

In this second phase of the controversy the issues are less clear-cut. The secularization of public instruction is the dominant trend in modern societies. In its finest manifestations such a trend is not anti-religious but—where a multiplicity of creeds exists—is indeed essential to free religion. In the United States this doctrine "against religious education in daily schools," as a Catholic body puts it,[70] arouses no serious conflict. But in a nation where one religion traditionally has enjoyed almost exclusive privileges, the attempt to establish "absolute laicism" in public educational institutions is almost inevitably considered anti-religious. "The official attitude of the Church," Archbishop (then Bishop) Pascual Diaz said in 1927, "is that all Catholic children should be trained in Catholic schools, but if that is not possible a bishop can permit attendance at primary schools provided the children are not taught anything contrary to Catholic faith and morals."[71]

It is apparent that there is ample ground for disagreement as to what constitutes subject matter "contrary to Catholic faith and morals." This was evident in the exchange of communications between the National Parents' Union, an organization of lay Catholics, and the Secretary of Education early in 1932. The parents took the position that the State schools were motivated by an "anti-religious" philosophy aimed at the "de-Christianization of our youth . . . . The concept of laicism," they added, "is not synonymous with rational or irreligious instruction." The Department of Education, on the other hand, insisted it was not fostering "anti-religious education" but was merely applying the concept adopted by the committee which drafted Article 3 of the Constitution. This concept was expressed at the time as follows: "The Committee understands by laical education, education divorced from all religious beliefs; education by which truth is transmitted, by which error is corrected, inspired by a rigorously scientific attitude." Consequently, the Minister of Education said, "no doubt can arise as to what the term 'lay education' should mean."[72]

Archbishop Pascual Diaz, in a Pastoral Instruction to Catholic parents issued on January 17, 1932, a few days after the Union had presented its petition, formulated the point of view of the Church with regard to this concept of "absolute laicism." "The object of Christian education," the Archbishop wrote, "is to form in the soul of children the image of our Lord Jesus Christ." The "mission of educating children in a Christian manner," the Archbishop added, "belongs first of all to the parents." Then to the Church, "as depository of revealed doctrine and as the spiritual mother of all the baptized," belongs the imparting "of religious instruction, and [the obligation] . . . to foster it, uphold it, and guard it." Consequently, the Archbishop concluded, "parents of the Archbishopric of Mexico must abstain from sending their children to the secondary lay schools"; and "we impress on the consciences of these parents the obligation that they have to prefer the Catholic schools to achieve the Christian education of their children."[73]

The government's gradually evolving ideology concerning the function of education in the Mexican state was comprehensively formulated in the Querétaro Six-Year Plan drafted in 1933 by the National Revolutionary party. This plan reiterates the concept that "the fostering of public instruction must be one of the essential functions of the state." It considers the elementary school "a social institution," to be controlled "by the state as the genuine and direct representative of the collectivity"; for the state "cannot admit" that through "a false and exaggerated concept of individual liberty" private individuals be allowed to establish and direct "educational institutions outside the control of the state." "Liberty of teaching" is to be viewed as "the faculty granted every person to impart educa-

69. The extension of the prohibition to secondary and normal schools is through the recent amendment to Article 3 of the Constitution. Cf. p. 114.

70. *Latin America and the United States,* cited, p. 55.

71. *New York Times,* January 10, 1927.

72. *Memoria relativa al estado que guarda el Ramo de Educación Pública el 31 de agosto de 1932* (Mexico, Secretaria de Educación Pública, 1932), vol. II, pp. 224, 242.

73. *Ibid.,* pp. 233-34.

tion, provided they meet the requirements that the law demands." State control over primary, private and secondary education is to embrace such matters as "the scientific and pedagogic orientation" of school work; and the "social orientation" and "non-religious and socialistic" requirements of State education.

All elementary schools, furthermore, in addition to excluding religious instruction, must provide "true, scientific, and rational answers to all and each of the problems to be resolved in the minds of those being educated," and must be based on the "orientation and postulates of the socialistic doctrine of the Mexican Revolution."[74]

AMENDMENT TO ARTICLE 3 OF CONSTITUTION

A committee of experts was subsequently appointed to prepare an amendment to Article 3 of the Constitution on the basis of the principles formulated by the Six-Year Plan and to establish "control of education by the State from its primary beginning to its professional termination."[75] This committee presented its project to Congress early in September 1934.[76] The amended Article 3 now reads as follows:

"Article 3. Education imparted by the State shall be socialistic, and in addition to excluding all religious doctrine shall combat fanaticism and prejudices, for which purpose the school shall organize its teachings and activities in a manner to permit the creation of a rational and exact concept of the universe and social life in the mind of youth.

"Only the State—the Federation, the States, and Municipalities—shall impart primary, secondary and normal education. Authorization may be granted private individuals to impart education on any of the three levels mentioned, provided it is done in accordance with the following norms:

"I. The activities and teachings of private institutions must follow, without exception, the precepts laid down in the first paragraph of this article, and shall be in charge of persons who, in the concept of the State, have sufficient professional preparation, suitable morality, and an ideology in keeping with this precept. Consequently, religious corporations, ministers of cults, stock companies that are exclusively or mainly devoted to educational activities, and associations and societies directly or indirectly concerned with the propagation of a religious creed, shall not intervene in any form in primary, secondary or normal schools, nor can they support them economically.

"II. The formation of plans, programs and methods of teaching will always be by the State.

"III. No private institutions may function without having first obtained, in each case, the express authorization of the public powers.

"IV. The State may revoke, at any time, the authorizations granted. Against this revocation there can be no appeal or legal action.

"These same norms shall govern education of any type or grade imparted to workers or peasants.

"Primary education shall be obligatory, and the State will provide it free.

"The State shall be able at any time to withdraw at its own discretion the official recognition granted studies made in private institutions.

"The Congress of the Union, with the aim of unifying and coordinating education throughout the Republic, will pass the necessary laws destined to distribute the social educative function among the Federation, the States, and the Municipalities, to fix the economic contributions corresponding to this public service, and to indicate the sanctions applicable to officials who do not comply with, or do not enforce, the relative provisions, as well as the sanctions applicable to those who infringe the laws."[77]

The theoretical positions of the State and Church concerning education thus appear to be irreconcilable on three chief points. First, the State is definitely moving toward education as a government monopoly; and "state monopoly of education has been considered by the Church to be nothing short of tyrannical usurpation,"[78] for the Church has "the exclusive right to teach religion to Catholic children" and "cannot approve schools which exclude religion from the curriculum."[79]

Second, the government's purpose is obviously to rear the child as an entity of a social and economic, not a religious community; while for the Church the aim of the school is primarily "the preservation of the Catholic faith of our children and the salvation of their souls."[80]

Third, as to content, the state excludes religious teachings from its schools and seeks to "create in Mexican youth a rational concept of the world and social life"; whereas the Church maintains that "intellectual education must not be separated from moral and religious education," that "religion should be an essential part of education," and that "sound moral instruction is impossible apart from religious education."[81] Moreover, the state's concept of education which "shall combat fanaticism

74. *Plan sexenal de Gobierno del Partido Nacional Revolucionario, 1934-1939*, paragraphs 180, 183, 186-188, 191-192.

75. *New York Times*, July 26, 1934.

76. *Ibid.*, September 9, 1934.

77. *Diario Oficial* (Mexico), December 13, 1934.

78. *Catholic Encyclopaedia*, Vol. 13, p. 558.

79. *Ibid.*

80. Thomas C. Shields, *Philosophy of Education* (Washington, D. C., Catholic University Press, 1917), p. 7.

81. *Catholic Encyclopaedia*, Vol. 5, p. 304.

and prejudice" is held to be definitely not only anti-Catholic but anti-religious, since, according to Catholics, "fanaticism" for many Mexicans is synonymous with Catholicism.[82] Evidence showing a definite anti-religious bias in the educational system is as yet fragmentary. Instances of such an attitude have been cited,[83] but chiefly on the part of radical states, not the federal government. It is still too early to know the concrete forms which application of the amendment to Article 3 of the Constitution will take. If "rational" education combating "fanaticism" implies anti-religious education, as charged by the Church, then the entire Church-State controversy in Mexico assumes a new aspect. The problem no longer follows the more familiar patterns of clericalism versus anti-clericalism. It involves the fundamental questions of the right of religions to exist, and the right of a totalitarian state to impart a doctrinal bias to all education. As such it affects not the Catholic Church alone, but the educational activities of all religious and private bodies.

CONCLUSIONS

Analysis of the Church-State conflict in Mexico appears to show that the following considerations are of major importance:

1. The present Church-State struggle has been complicated by the fact that it constitutes a heritage from colonial days.

2. The Church, which opposed Mexican independence,[84] was long identified with reactionary elements. "The beliefs of the clerical party . . . rested upon a denial of all the premises which practically every American takes for granted."[85]

3. The exclusiveness of the Catholic Church in Mexico prevented the development of tolerance and liberty which have been beneficial both to the State and to Catholicism in other American nations. It is significant that Latin-American states which have exhibited most tolerance toward other religions[86] are those where anti-clericalism has flourished least and Catholicism has prospered most.

4. The Church in Mexico has also aroused criticism because religious practices have sometimes departed from pure Roman Catholic doctrine, and in many cases have failed to maintain the high standards established by early missionaries. As a Mexican clergyman admitted, when questioned on such irregular practices, "we of the clergy have in the past been resting on our laurels."[87]

5. These factors accentuated the excesses which a revolution naturally provokes. "The fury with which the early agrarian movement [of the 1910 revolution] fell upon parish churches and convents," observes a prominent Catholic, "is understandable only when we take into account the fact that large numbers of the clergy had become identified with the quasi-feudal system of land tenure and peonage."[88]

6. The opposition of the Church to the 1917 Constitution, even though its provisions had not been rigidly enforced, reaffirmed in the minds of many Mexicans the association of the Church with reactionary forces. "Peace will come," Obregón said in 1928, "when we force the reactionaries to abandon the hope of reestablishing the conditions of the past, and of regaining their old privileges."[89]

7. As a result, anti-clericalism has gone to extremes, exemplified by the fanatic excesses of the State of Tabasco which has sought to force priests to marry and prohibited the use of gravestones on tombs.[90] At times "every personal right of every Catholic" has been violated.[91]

8. The Church's past opposition to freedom of teaching, Mexico's tardy efforts to secularize its public schools, and the trend toward the totalitarian state have also been productive of extremes. "The fact that the country priests have used their enormous influence over the schools of their par-

82. As to the "socialist" aspects of this education, a study of the Six-Year Plan and the recent statements of leaders of the National Revolutionary party lead to the belief that the term means little more than economic nationalism through state control of the major economic processes.

83. Cf. Macfarland, *Chaos in Mexico*, cited, pp. 77-110.

84. Lucas Alamán, *Historia de Méjico*, cited, I, pp. 389-92.

85. Lippmann, "Church and State in Mexico," cited. p. 195.

86. For example, Argentina, which passed "reform laws" in 1822 and had a Protestant church in Buenos Aires in 1829; Uruguay, whose Constitution of 1830 permitted other religions; Chile, which in 1856 allowed the erection of the first Protestant church building on the West Coast of South America. Cf. Mecham, *Church and State in Latin America*, cited, pp. 253-54, 276-77, 331.

87. Quoted by Abbé Alphonse Lugan in *Current History*, February 1931, p. 676. A great deal of literature has been published on this phase of the religious problem, but so far as Mexico is concerned perhaps the most objective study is, Manuel Gamio, *La población del valle de Teotihuacán* (3 vols., Mexico, Talleres Gráficos de la Nación, 1922), an anthropological study of a Mexican community including a survey of its religious practices. In *Forjando Patria* (Mexico, Porrúa Hnos., 1916), Gamio states that "there are three kinds of Catholics: the pagan-Catholics, the true Catholics, and the utilitarian Catholics" in Mexico (p. 159). "Respect and guarantees for the true Catholics" is his program (p. 162).

88. William F. Montavon in A. Curtis Wilgus, *Modern Hispanic America* (Washington, D. C., George Washington University Press, 1934), p. 237.

89. *Current History*, June 1928, p. 479.

90. *New York Herald Tribune*, January 4, 1934.

91. Carleton Beals, *The Genius of Mexico* (edited by Hubert C. Herring and Katharine Terrill, New York, The Committee on Cultural Relations with Latin America, 1931), p. 322.

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ishes to oppose the establishment of rural schools has been at least one factor in causing the drastic decree for the laicizing of all primary schools."[92] The "soul is over all, and the religious leaders are always right," is the pattern of thought of many peasants.[93] So the state, Calles has said, "must enter and take possession of the consciences of the children," because "they belong and should belong to the Revolution."[94]

9. From simple secularization of public instruction Mexico has thus passed to a philosophy inimical to Church doctrine, based on the notion of giving youth "a rational concept of the world and social life." The amendment on education, according to the Church, has ended the neutrality toward religious matters inherent in laicized education and imposed a doctrinal bias on public instruction.[95]

10. If the government, as it professes, is not motivated by a desire to extirpate the Church, and the Church, as it argues, is not seeking return of the exclusive privileges it enjoyed under the old order, it would seem reasonable to suppose that many of the restrictions which at present incapacitate the Church in the exercise of its religious duties could be modified or alleviated. These restrictions embrace chiefly the corporate existence of the Church, its right to own properties essential to its religious ministrations, to maintain and train a priesthood adequate to its needs, to enjoy a free press, and other fundamentals commonly associated with freedom of conscience and thought.

11. But in matters where the peripheries of Church and State activities definitely overlap, as in the education of citizens, it must be admitted that there is little hope at present of effecting a compromise conforming to the basic tenets of the Church. Relaxation of the severe restrictions on private schools, however, is certainly not unreasonable or impracticable.[95a]

12. In considering these problems the factors and attitudes which go to make up the "difference between the conception of civil and religious freedom upheld by the American Constitution and that of the makers and defenders of the present Constitution in Mexico"[96] must be borne in mind. It is also a question whether Mexico, with its historical background, can quickly establish the broad freedom of religion and teaching which exists in the United States today and which the Mexican Church so vigorously opposed in the past.[97] Too often, says a Catholic study, "the customs of a country of a hundred religions are considered by the average American best also for a country of one religion."[98]

13. From the point of view of the Church, the basic problem is the presence in many Mexicans of those social phobias which keep alive the old cry—"The clergy is our eternal enemy."[99] On the other hand, it must be borne in mind that the present situation is deeply rooted in the past and that the whole Mexican revolutionary philosophy is not just "riotous, blasphemous communism."[100] The danger of again associating the Church with foreign interests, particularly at a time when the traditional Church-State conflict is complicated by integral and economic nationalism, is obvious; for the Mexicans, a prominent American Catholic layman says, "are extremely resentful of foreign advice or interference and particularly advice or interference on our own part."[101] The problem is one of reasonable accommodation to local factors, from which the Church has drawn much of its strength in other countries. The Church may also find that, while it must justly protest against many economic aspects of the Mexican "socialistic" philosophy, this philosophy has aims with which it may not be in serious disagreement; for, as Pope Pius wrote with regard to some modern trends, the programs of socialists "often strikingly approach the just demands of Christian social reformers."[102] Permanent rapprochement, it seems, can take place only when the government is convinced that Catholics, instead of being still associated with reactionary elements, are, as His Holiness advised in 1926, spending their energy "in the interest of religion and morals and culture, as well as in the betterment of economic and social conditions."[103] A change in the official attitude, however, appears possible under President Cárdenas, and indicates that some of the religious legislation may be modified.

92. John Dewey, *The New Republic*, September 22, 1926.

93. Quoted by Paul S. Taylor, *A Spanish-Mexican Community: Arandas in Jalisco* (University of California Press, 1933), p. 38.

94. *New York Times*, October 17, 1934.

95. For instances of anti-religious bias in the educational field, cf. Macfarland, *Chaos in Mexico*, cited, and Kelley, *Blood-Drenched Altars*, cited.

95a. It appears that President Cárdenas is preparing to move in this direction. Cf. *New York Times*, July 1, 1935.

96. *Pastoral Letter of the American Hierarchy* (1926), p. 8.

97. Cf. Bishop Mungías' denunciations of freedom of religion and teaching in 1857 in Mecham, *Church and State in Latin America*, cited, p. 439.

98. *Latin America and the United States*, cited, p. 55.

99. "The Clergy continues to be the same . . . The Clergy will not admit that any errors were committed in times past." Emilio Portes Gil, *The Conflict Between the Civil Power and the Clergy* (Mexico, Press of the Ministry of Foreign Affairs, 1935), pp. 96-97.

100. Cardinal O'Connell, *New York Evening Post*, December 8, 1927.

101. William D. Guthrie, *Church and State in Mexico* (New York, Pandick Press, 1926), p. 45.

102. Encyclical *Quadragesimo Anno* (May 25, 1931). Cf. *Current History*, July 1931, p. 482, and October 1931, pp. 29ff.

103. Apostolic Letter of February 2, 1926, cited.